

UNITED STATES  
BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT

**Local Rules**

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# TABLE OF CONTENTS

<b>Judges and Officers of the Panel</b> .....	vi
<b>Amendments</b> .....	vii
<b>Local Rules</b>	
<b>RULE 8001-1 Title and Effective Date</b> .....	1
(a) Title .....	1
(b) Effective Date .....	1
<b>RULE 8001-2 Notice of Appeal</b> .....	1
(a) Filing Requirements .....	1
(b) Separate Notices .....	1
(c) Consequence of Noncompliance .....	1
<b>RULE 8001-3 Voluntary Dismissal of Appeal</b> .....	1
<b>RULE 8001-4 Forum for Appeal</b> .....	2
(a) Appeals to the BAP .....	2
(b) Election to Have District Court Hear Appeal .....	2
(1) Appellant Election .....	2
(2) Appellee Election .....	2
(A) Waiver .....	2
(c) Procedure Upon Election .....	2
(d) Challenge(s) to Election .....	2
(e) Transfer .....	2
(f) Election and Motion for Leave to Appeal .....	3
<b>RULE 8003-1 Motion for Leave to File Interlocutory Appeal</b> .....	3
(a) Motion Required .....	3
(b) Response .....	3
(c) Clerk to Transmit .....	3
(d) Decision on Motion .....	3
<b>RULE 8005-1 Stay Pending Appeal</b> .....	3
(a) Appendix .....	3
<b>RULE 8006-1 Record on Appeal</b> .....	4
(a) Consequence of Noncompliance .....	4
(b) Copy of Record on Appeal .....	4

~~———— (c) Challenge(s) to Designation . . . . . 4~~

~~**RULE 8007-1 Docketing of Appeal; Completion of the Record 4**~~

~~———— (a) Preliminary Transmission . . . . . 4~~  
~~———— (b) Supplemental Transmission . . . . . 4~~  
~~———— (c) Completion of the Record . . . . . 4~~  
~~———— (d) Docketing of Appeal . . . . . 4~~

~~**RULE 8008-1 Filing and Service . . . . . 5**~~

~~———— (a) Filing Upon Receipt . . . . . 5~~  
~~———— (b) Translation(s) Required . . . . . 5~~  
~~———— (c) Service . . . . . 5~~  
~~———— (d) Facsimile Filing . . . . . 5~~

~~**RULE 8009-1 Time for Filing Briefs and Related Documents . . . . . 5**~~

~~———— (a) Filing of Briefs . . . . . 5~~  
~~———— (b) Motion for Extension of Time for Filing a Brief . . . . . 6~~  
~~———— (1) Requirements . . . . . 6~~  
~~———— (c) Consequence of Failure to File Brief Timely . . . . . 6~~

~~**RULE 8009-2 Appendices . . . . . 6**~~

~~———— (a) Filing of Appendix . . . . . 6~~  
~~———— (b) Format of Appendix . . . . . 7~~  
~~———— (1) Paper and Margin Standards . . . . . 7~~

~~———— (2) ————~~



**Table of Contents and Page Numbering** ~~7~~

<del>(3) Covers .....</del>	<del>7</del>
<del>(4) Binding .....</del>	<del>7</del>
<del>(5) Relevant Statutes, Rules, and Regulations .....</del>	<del>7</del>
<del>(c) Consequence of Noncompliance.....</del>	<del>7</del>
<b><del>RULE 8010-1 Forms of Briefs .....</del></b>	<b><del>7</del></b>
<del>(a) Length .....</del>	<del>7</del>
<del>(b) Content .....</del>	<del>7</del>
<del>(1) Briefs .....</del>	<del>7</del>
<del>(2) References to Appendix .....</del>	<del>7</del>

(3) Statement of Related Case	7
(A) Related Case	8
(4) Statement of Interested Parties	8
(A) Interested Party	7
(c) Format	8
(1) Paper and Margin Standards	8
(2) Line Spacing and Type	8
(3) Page Numbering	8
(4) Table of Contents	8
(5) Covers	8
(A) Form	8
(B) Color	9
(6) Binding	9
(d) Consequence of Noncompliance	9
<b>RULE 8011-1 Motion Practice</b>	<b>9</b>
(a) Written Motion Required	9
(1) Statement Regarding Opposition	9
(b) Responses	9
(c) Telephone Number and Facsimile Number	9
(d) Procedural Motions	9
(1) Clerk Authorized	9
(2) Reconsideration	10
(e) Substantive Motions	10
(f) Summary Disposition	10
<b>RULE 8011-2 Emergency Motions</b>	<b>10</b>
(a) Notice	10
(b) Form and Content	10
<b>RULE 8012-1 Oral Argument</b>	<b>10</b>
(a) Statement Regarding Oral Argument	11
(b) Waiver of Oral Argument	11
(c) Telephonic Appearance	11
(d) Notice of Argument	11
(e) Presentation of Oral Argument	11
(f) Location of Oral Argument	11
<b>RULE 8016-1 Clerk of the Bankruptcy Appellate Panel</b>	<b>12</b>

~~\_\_\_\_\_ (a) Communication with the BAP ..... 12~~  
~~\_\_\_\_\_ (b) Hours of the BAP ..... 12~~

~~**RULE 8018-1 Silence of Local Rules ..... 12**~~

~~**RULE 8070-1 Diligent Prosecution of Appeals ..... 12**~~

~~\_\_\_\_\_ (a) Reporting Changes ..... 12~~  
~~\_\_\_\_\_ (b) Dismissal for Failure to Prosecute ..... 12~~  
~~\_\_\_\_\_ (1) Discretion to Reinstate ..... 12~~

~~**RULE 9009-1 Official Forms ..... 13**~~

~~**RULE 9010-1 Entry of Appearance and Admission to Practice ..... 13**~~

~~\_\_\_\_\_ (a) Notice of Appearance ..... 12~~  
~~\_\_\_\_\_ (b) Appearance ..... 13~~  
~~\_\_\_\_\_ (c) Withdrawal and Substitution ..... 13~~  
~~\_\_\_\_\_ (d) Admission ..... 13~~  
~~\_\_\_\_\_ (e) Pro Hac Vice ..... 14~~

~~**RULE 9010-2 Pro Se Parties ..... 14**~~

**Forms**

~~1st Cir. BAP L.R. Official Form 1 ..... 15~~  
~~1st Cir. BAP L.R. Official Form 2 ..... 16~~  
~~1st Cir. BAP L.R. Official Form 3 ..... 17~~  
~~1st Cir. BAP L.R. Official Form 4 ..... 18~~

~~JUDGES OF THE PANEL~~

**JUDGES ..... 11**

**OFFICERS..... 11**

**AMENDMENTS..... 12**

**LOCAL RULES ..... 13**

**1st Cir. BAP L.R. 8001-1. Title; Effective Date; Method of Transmitting Documents ..... 13**

    (a) Title..... 13

    (b) Effective Date..... 13

    (c) Method of Transmitting Documents..... 13

**1st Cir. BAP L.R. 8003-1. Filing the Notice of Appeal ..... 13**

    (a) Filing Requirements..... 13

    (b) Separate Notices..... 14

    (c) Consequence of Noncompliance ..... 14

**1st Cir. BAP L.R. 8005-1. Forum for Appeal; Elections ..... 14**

    (a) Appeals to the BAP..... 14

    (b) Election to Have District Court Hear Appeal..... 14

    (c) Transfer..... 15

**1st Cir. BAP L.R. 8007-1. Stay Pending Appeal..... 15**

    (a) Time to File..... 15

**1st Cir. BAP L.R. 8008-1. Indicative Rulings ..... 15**

    (a) Notice to the Court Where the Appeal is Pending..... 15

    (b) Remand After An Indicative Ruling..... 15

**1st Cir. BAP L.R. 8009-1. Record on Appeal ..... 16**

    (a) Inadequate Record..... 16

**Rule 8010-1. Transmitting the Record; Notification of Bankruptcy Court Motions ..... 16**

    (a) Transmitting An Incomplete Record..... 16

    (b) Notification of Bankruptcy Court Motions..... 16

**1st Cir. BAP L.R. 8011-1. Filings; Translation(s) Required ..... 18**

    (a) Timeliness..... 18

(b) Translation(s) Required .....	18
(c) Privacy Protection .....	19
(d) Hyperlinks .....	19
<b>1st Cir. BAP L.R. 8012-1. Corporate Disclosure Statement.....</b>	<b>20</b>
(a) Statement .....	20
<b>1st Cir. BAP L.R. 8013-1. Motions.....</b>	<b>20</b>
(a) Procedural Motions .....	23
(b) Substantive Motions .....	23
(c) Summary Disposition .....	23
(d) Emergency Motions .....	24
<b>1st Cir. BAP L.R. 8014-1. Briefs .....</b>	<b>24</b>
(a) Content .....	24
<b>1st Cir. BAP L.R. 8015-1. Form of Briefs, Appendices, and Other Documents .....</b>	<b>25</b>
(a) Nonconforming Documents .....	25
<b>1st Cir. BAP L.R. 8018-1. Filing Briefs, Appendices, and Other Documents .....</b>	<b>25</b>
(a) Filing of Briefs or Appendices .....	25
(b) Form of Appendix .....	25
(c) Motion for Extension of Time for Filing a Brief.....	25
<b>1st Cir. BAP L.R. 8019-1. Oral Argument.....</b>	<b>26</b>
(a) Statement Regarding Oral Argument .....	26
(b) Waiver of Oral Argument .....	26
(c) Telephone or Videoconference .....	26
(d) Exceptions to Oral Argument .....	26
(e) Presentation of Oral Argument .....	26
(f) Location of Oral Argument.....	26
(g) Change of Date, Method, or Place of Hearing .....	27
<b>1st Cir. BAP L.R. 8020-1. Diligent Prosecution of Appeals.....</b>	<b>27</b>
(a) Reporting Changes .....	27
(b) Dismissal for Failure to Prosecute .....	27
(c) Sanctions for Vexatious Litigation .....	28
<b>1st Cir. BAP L.R. 8022-1. Motion for Rehearing .....</b>	<b>28</b>
(a) Responses.....	28
<b>1st Cir. BAP L.R. 8024-1. Office of the Clerk .....</b>	<b>28</b>
(a) Communication with the BAP .....	28
(b) Hours of the BAP .....	28
<b>1st Cir. BAP L.R. 8026-1. Local Rules.....</b>	<b>28</b>
(a) Application of the Federal Rules of Bankruptcy Procedure.....	28
(b) Silence of the Local Rules .....	28
(c) Definitions.....	29

**1st Cir. BAP L.R. 9009-1. Official Forms ..... 29**

**1st Cir. BAP L.R. 9010-1. Entry of Appearance and Admission to Practice ..... 29**

    (a) Notice of Appearance ..... 29

    (b) Appearance ..... 29

    (c) Withdrawal and Substitution ..... 29

    (d) Admission ..... 29

    (e) Pro Hac Vice ..... 30

**1st Cir. BAP L.R. 9010-2. Pro Se Parties ..... 30**

**1st Cir. BAP Official Form 1 ..... 31**

**1st Cir. BAP Official Form 2 ..... 34**

-ii-  
**JUDGES**

Hon. William C. Hillman, Chief Judge

~~Hon. Arthur N. Votolato, Bankruptcy Judge~~  
Hon. Enrique S. Lamoutte, U.S. Bankruptcy Judge  
~~Hon. James B. Haines, Jr., Bankruptcy Judge~~  
Hon. Joan N. Feeney, U.S. Bankruptcy Judge  
Hon. Henry J. Boroff, U.S. Bankruptcy Judge  
Hon. J. Michael Deasy, U.S. Bankruptcy Judge  
Hon. Louis H. Kornreich, U.S. Bankruptcy Judge  
Hon. Brian K. Tester, U.S. Bankruptcy Judge  
Hon. Frank J. Bailey, U.S. Bankruptcy Judge  
Hon. Mildred Flores Caban, U.S. Bankruptcy Judge  
Hon. Melvin S. Hoffman, U.S. Bankruptcy Judge  
Hon. Edward A. Godoy, U.S. Bankruptcy Judge  
Hon. ~~Melvin Diane Finkle, U.S. Hoffman,~~ Bankruptcy Judge  
Hon. Bruce A. Harwood, U.S. Bankruptcy Judge

**OFFICERS OF THE PANEL**

Mary P. Sharon, Clerk of Court  
Gwen May, Judicial Law Clerk  
Leslie Storm, Staff Attorney  
Ann Williams, Case Manager

## AMENDMENTS

May 13, 2010

\*\*\*\*, 2014

This edition of the rules supersedes the ~~January, 2009~~May 2010 publication.

~~UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT~~

## LOCAL RULES

### RULE 1st Cir. BAP L.R. 8001-1. Title and Effective Date; Method of Transmitting Documents

(a) **Title.** These local rules, promulgated under Fed. R. Bankr. P. 801826, shall govern practice before the United States Bankruptcy Appellate Panel for the First Circuit (the “BAP”~~or the “Panel”~~) and shall be known as the First Circuit BAP Local Rules. They shall be cited as “1st Cir. BAP L.R. \_\_\_\_.”

(b) **Effective Date.** These rules shall take effect on ~~May 13, 2010~~December \*\*, 2014, with respect to pending cases and those filed thereafter insofar as is just and practicable.

### RULE 8001-2

#### (c) Method of Transmitting Documents.

(1) Electronic Case Filing. BAP General Order No. 2, Order Regarding Case Management/Case Filing System (CM/ECF), sets forth the provisions for the electronic filing of documents in cases before the BAP and the exceptions thereto.

(2) Facsimile Filing. The BAP clerk is authorized to consider a request to accept for filing document(s) transmitted via facsimile in situations the BAP clerk determines present an emergency or are otherwise compelling. Such documents must be served on all other parties electronically or by facsimile or hand delivery within 24 hours after the initial transmission.

### 1st Cir. BAP L.R. 8003-1. Filing the Notice of Appeal

(a) **Filing Requirements.** A notice of appeal, substantially in conformance with Official Bankruptcy Form 17A, shall be filed with the appropriate bankruptcy court with the filing fee in the total amount provided in 28 U.S.C. § 1930(c) and the Bankruptcy Court Miscellaneous Fee Schedule promulgated pursuant to 28 U.S.C. § 1930(b). In addition to the requirements set forth in Fed. R. Bankr. P. 8003(a)(3), the appellant shall attach to include in the notice of appeal a copy of the names of all parties to the bankruptcy court judgment, order, or decree appealed from which the appeal is taken and the names, addresses, and telephone numbers of their respective attorneys.

(b) **Separate Notices.** A separate notice of appeal and filing fee shall be filed for each bankruptcy court judgment, order, or decree being appealed except as provided in Fed. R. Bankr. P. 8002(b)(3).

(c) **Consequence of Noncompliance.** The BAP may dismiss ~~anthe~~ appeal ~~for failure to cure any defect inif the appellant fails:~~

(1) within 14 days after filing the notice of appeal within the time period prescribed by the BAP or the order granting the motion for leave to appeal to pay the filing fee or to file a motion to waive the filing fee; or

### **RULE 8001-3**

#### **Voluntary Dismissal of Appeal**

~~If an appeal has been docketed with the BAP, it may be dismissed by the parties in the manner set forth in Fed. (2) to pay the filing fee within 14 days after the entry of the order denying the motion to waive the fee unless the bankruptcy court orders otherwise.~~

~~1st Cir. BAP L.R. 8005-1. R. Bankr. P. 8001(e)(2). An appeal may also be dismissed on motion of the appellant(s), if no response or opposition is filed within fourteen (14) days after service of the motion, on terms and conditions determined by the BAP.~~

### **RULE 8001-4**

#### **Forum for Appeal; Elections**

(a) **Appeals to the BAP.** Pursuant to 28 U.S.C. § 158(c)(1), all appeals from bankruptcy courts are to the BAP, unless one of the parties to the appeal ~~files an election~~elects to have the district court hear the appeal ~~as set forth in subsection (b) of this Rule.~~

(b) **Election to Have District Court Hear Appeal.**

(1) **Appellant Election; Waiver.** ~~An appellant electing; To elect~~ to have the district court hear the appeal ~~shall file with, an appellant must indicate the bankruptcy court, concurrently with election in~~ the notice of appeal; The notice of appeal shall conform substantially to Official Form 17A. Failure to include a separate written statement of election to have the district court hear the appeal. Failure to elect at the time of filing thein a notice of appeal will result in a waiver of the right of election under 28 U.S.C. § 158(c)(1) ~~and Fed.) R. Bankr. P. 8001(e). The statement of election shall substantially conform with 1st Cir. BAP L.R. Official Form 1.~~

(2) **Appellee Election; Waiver.** An appellee electing to have the district court hear the appeal shall file with the BAP, within ~~thirty (30)~~ days from service of the notice of appeal, a ~~separate written~~ statement of election that conforms substantially to have the district court hear the appeal Official Form 17B. Failure to elect within the time provided prescribed will result in a waiver of the right of election under 28 U.S.C.

~~§ 158(c)(1) and Fed. R. Bankr. P. 8001(e). The statement of election shall substantially conform with 1st Cir. BAP L.R. Official Form 2.~~

~~(A) Waiver.~~ Unless the ~~Panel~~BAP orders otherwise, the filing of any document(s) (other than a notice of appearance) by an appellee with the BAP or with the bankruptcy court in connection with an appeal prior to filing a statement of election will result in a waiver of any time remaining in the ~~thirty (30)~~ day election period.

~~(c) Procedure Upon Election.~~ Upon an effective election by an appellant, the bankruptcy court clerk shall direct the appeal to the district court in accordance with any established rules in the district. Upon an effective election by an appellee, the BAP Clerk shall transfer to the bankruptcy court all pleadings filed with the BAP and a certified copy of the BAP docket.

~~(d) Challenge(s) to Election.~~ Any challenge to an election shall be brought by motion within fourteen (14) days after an election is filed. The motion shall be filed with the BAP unless the bankruptcy court clerk or the BAP Clerk has transmitted the appeal to the district court in which case the motion shall be filed with the district court.

~~(e) Transfer.~~(c) Transfer. The BAP may transfer an appeal to the district court to further the interests of justice or for any other reason the BAP deems appropriate including circumstances where a timely statement of election has been filed in a related appeal. The BAP clerk will notify the bankruptcy clerk of the transmission.

~~(f) Election and Motion for Leave to Appeal.~~1st Cir. BAP L.R. 8007-1. Stay Pending Appeal

(a) Time to File. The BAP may deny a motion for stay if it is not presented promptly. If the motion is an emergency motion, the movant shall comply with Fed. R. Bankr. P. an appellant moves for leave8013(d) and 1st Cir. BAP L.R. 8013-1(d).

### 1st Cir. BAP L.R. 8008-1. Indicative Rulings

(a) Notice to the Court Where the Appeal is Pending. If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because of an appeal pursuant to Fed. that has been docketed R. Bankr. P. 8003, and is pending, and the bankruptcy court issues a ruling under Fed. R. Bankr. P. fails to 8008(a), the movant shall, within 7 days, file a separate notice of with the BAP a motion in which it will notify the BAP of the bankruptcy court ruling and indicate whether it is seeking an order of remand and retention of jurisdiction or whether it is seeking an order dismissing the appeal concurrently with filing the.

(b) Remand After An Indicative Ruling. If the BAP issues an order of remand and retention of jurisdiction, the movant shall, within 7 days after the bankruptcy court has issued an order on the underlying motion for leave, the motion relief, file with the BAP a report indicating the disposition

~~of the underlying motion for leave shall be treated as if it were a notice of relief and whether the appeal for purposes of calculating the time period for filing an election. \_\_\_\_\_ has been rendered moot or the movant intends to proceed with the appeal.~~

**RULE 8003** 1st Cir. BAP L.R. 8009-1

~~Motion for Leave to File Interlocutory.~~ **Record on Appeal**

~~(a) **Motion Required**. Parties seeking leave to appeal **Inadequate Record**. The BAP need not remedy any failure by a party to designate an interlocutory judgment, order, or decree shall file in the bankruptcy court adequate record.~~

**Rule 8010-1. Transmitting the Record; Notification of Bankruptcy Court Motions**

~~(a motion, containing.) **Transmitting An Incomplete Record**. If, after the matters expiration of the deadlines set forth in Fed. R. Bankr. P. 80039(a), together with the notice of appeal, the record is incomplete, the bankruptcy clerk may transmit to the BAP a Certificate of Readiness indicating that the record is incomplete. When the deficiency is cured, the bankruptcy clerk may send a Supplemental Certificate of Readiness.~~

~~(b) **Response**. Unless the BAP orders otherwise, any party opposing a motion for leave to appeal an interlocutory judgment, order, or decree shall file its response with the bankruptcy court within fourteen (14) days of service of the motion. Unless the BAP orders otherwise, the filing of any document(s) prior to making the election, including a response to the motion for leave to appeal, will result in a waiver of any time remaining in the thirty (30) day election period. See 1st Cir. BAP L.R. 8001-4(b)(2)(A).~~

~~(c) **Clerk to Transmit**. Unless there is an election to have the district court hear the appeal, the bankruptcy court clerk shall forward the motion and any responses to the BAP for decision.~~

~~(d) **Decision on Motion**. The BAP may render its decision on the motion with or without a hearing. Upon the entry) **Notification of** the BAP decision or order, the BAP Clerk shall serve the same on the parties and the bankruptcy court clerk.~~

**RULE 8005-1**

**Stay Pending Appeal**

~~(a) **Appendix, Bankruptcy Court Motions**. If, In addition to the requirements set forth in Fed. R. Bankr. P. 8005, a motion for stay pending appeal shall be accompanied by an appendix containing the following: \_\_\_\_\_~~

~~(1) a copy of the bankruptcy court's order denying a motion for stay or a copy of the transcript of the bankruptcy court's hearing on the motion, unless the motion was not first presented to the bankruptcy court; and~~

~~\_\_\_\_\_ (2) a copy of any document(s) filed in the bankruptcy court that is relevant to the motion  
\_\_\_\_\_ for stay.~~

**~~RULE 8006-1  
Record on Appeal~~**

~~(a) **Consequence of Noncompliance.** Failure to include in the record on appeal all of the items listed in Fed. R. Bankr. P. 8006 may result in dismissal of the appeal.~~

~~(b) **Copy of Record on Appeal.** Upon request of the BAP, a party shall provide four (4) copies of its designation and each item designated to the BAP. \_\_\_\_\_~~

~~(c) **Challenge(s) to Designation.** A party challenging a designation shall file a motion with the BAP within fourteen (14) days of the filing of the designation.~~

**~~RULE 8007-1  
Docketing of Appeal ; Completion of the Record~~**

~~(a) **Preliminary Transmission.** Promptly after a notice of appeal is filed, the bankruptcy court clerk shall transmit to the BAP Clerk a copy of the following:~~

~~\_\_\_\_\_ (1) a certified copy of the the BAP dockets in the main case and adversary proceeding, if applicable;~~

~~\_\_\_\_\_ (2) the notice of appeal with the attached bankruptcy court judgment, order, or decree \_\_\_\_\_ being appealed;~~

~~\_\_\_\_\_ (3) any motion to extend time to file the notice of appeal and the order disposing of the motion;~~

~~\_\_\_\_\_ (4) any written findings and conclusions or opinion of the bankruptcy court; and~~

~~\_\_\_\_\_ (5) any post judgment motion regarding the appealed judgment, order, or decree and any order disposing of the motion.~~

~~(b) **Supplemental Transmission.** If after the bankruptcy court clerk has transmitted the preliminary transmission, a motion regarding the appealed judgment, order, or decree is filed, the bankruptcy court clerk promptly shall transmit to the BAP Clerk a copy of the motion, any order disposing of the motion, and the related docket entries. The bankruptcy court clerk shall transmit to the BAP Clerk a copy of the transcript immediately after it is filed.~~

~~(c) **Completion of the Record.** After the parties have completed the record pursuant to the~~

~~deadlines and requirements set forth in Fed. matter on appeal is filed at the bankruptcy court R. Bankr. P. 8006, the bankruptcy court clerk shall promptly transmit the completed record to the BAP notify the BAP clerk of the filing of the motion and any order disposing of the motion.~~

~~(d) **Docketing of Appeal.** An appeal is deemed to be docketed at the BAP, for purposes of Fed. R. Bankr. P. 8007(b), upon the docketing of the completed record received from the bankruptcy court clerk. The BAP Clerk shall give notice promptly to all parties of the date of the docketing of the appeal.~~

## **RULE 8008-1** **Filing and Service**

### ~~(a) **Filing.** 1st Cir. BAP L.R. 8011-1. Filings; Translation(s) Required~~

~~(a) **Timeliness.** Unless the BAP orders otherwise, any document(s), other than briefs and appendices, which are not filed electronically are timely filed if received in the office of the BAP Clerk by 5:00 p.m. All documents filed shall be received and docketed by the BAP Clerk, whether or not timely filed. The BAP has established procedures for electronic filing of documents, with certain exceptions, as set forth in General Order No. 2 and any amendments to that order. General Order No. 2 is posted on the website at <http://www.bap1.uscourts.gov>. Upon request, the BAP Clerk will provide a hard copy of General Order No. 2.~~

**(b) Translation(s) Required.** The BAP will disregard any document(s) not in the English language unless a contemporaneous official, certified, or stipulated translation(s) is furnished. Whenever a party cites to a statute, ~~Rule~~, or regulation of the Commonwealth of Puerto Rico (“Puerto Rico”), an opinion of the Supreme Court of Puerto Rico, or other court of Puerto Rico in an appendix, brief, or at oral argument and the cited authority is not available in the bound English language volumes, an official, certified, or stipulated translation thereof shall be filed. Translations of pertinent and relevant excerpts of the foregoing may be accepted if stipulated to by the parties or submitted by a party not less than ~~thirty (30)~~ days before oral argument. Where translations of excerpts are submitted by one party, opposing parties may submit, prior to oral argument, translations of such additional parts as they deem necessary for a proper understanding of the substance of any such statute, rule, regulation, or holding.

~~(c) **Service.** A party shall serve all other parties to the appeal with an exact copy of any document(s) the party files with the BAP, with the exception of the designated record, and shall attach to the document(s) a signed certificate of service. Although the BAP Clerk shall accept for filing any document(s) lacking a certificate of service, failure to effect service properly or to file such certificate shall be grounds for such sanctions as the BAP may deem appropriate.~~

~~(d) **Facsimile Filing.** The BAP Clerk is authorized to accept any document(s) via facsimile if the BAP Clerk determines that the situation presents an emergency or is otherwise compelling. Any document(s) filed by facsimile must be served on all other parties by facsimile or hand delivery.~~

within 24 hours after the facsimile filing and may be subject to such procedures for follow-up filing of electronic or hard copies as the BAP Clerk may from time to time specify. Under no circumstances will the BAP Clerk accept for filing by facsimile briefs and appendices. The facsimile number for the BAP is posted on the website at <http://www.bap1.uscourts.gov>.

**RULE 8009-1**  
**Time for Filing Briefs and Related Documents**

~~(a) **Filing of Briefs.** After the BAP docket the appeal pursuant to 1st Cir. BAP L.R. 8007-1(d), it shall issue a briefing order setting forth the deadlines for the filing of all briefs. The briefs shall be filed in the form set forth in 1st Cir. BAP L.R. 8010-1. Briefs filed electronically must be filed on or before the date provided in the briefing order. Briefs not filed electronically may be filed by mail, but the filing is not timely unless the briefs are received by the BAP Clerk within the time fixed for filing, except that briefs are deemed filed on the day of mailing.~~

~~(b) **Motion for Extension of Time for Filing a Brief.**~~

~~———— (1) **Requirements.** A motion for extension of time for filing a brief shall:~~

~~(A) be made within the time limit established by the briefing order for the filing of such brief;~~

~~(B) be supported by a declaration setting forth any previous briefing deadlines; how many extensions of time, if any, have been granted; and whether any previous requests for extensions of time have been denied or denied in part; and~~

~~(C) briefly recite the reasons why such an extension is necessary and the amount of time requested. Any motion for an extension of time to file a brief on the ground that the transcript is unavailable shall affirmatively show that the transcript was timely ordered and paid for or shall state why the transcript was not ordered.~~

~~(c) **Consequence of Failure to File Brief Timely.** An appellant's failure to file a brief timely may result in dismissal of the appeal. An appellee's failure to file a brief timely may result in loss of the right to be heard at oral argument.~~

~~(c) **Privacy Protection.** An appeal in a case or proceeding to which Fed. R. Bankr. P. 9037 privacy protection applied is governed by the same rule on appeal. In all other appeals, Fed. R. Civ. P. 5.2 privacy protection governs. The BAP clerk may but shall not be required to redact personally identifiable information that a party neglects to redact.~~

~~(d) **Hyperlinks.** Electronically filed documents may, but need not, contain hyperlinks except as stated herein. Hyperlinks to cited authority may not replace standard citation format and will not~~

be considered part of the record. The BAP accepts no responsibility for the availability or functionality of any hyperlink and does not endorse the content or provider of any hyperlink.

**1st Cir. BAP L.R. 8012-1. Corporate Disclosure Statement**

~~(a) **Statement.** Filing a timely Statement Regarding Interested Parties pursuant to 1st Cir. BAP L.R. 8014-1(a)(3) satisfies a party's obligation under Fed. R. Bankr. P. Briefs filed late shall be accompanied by a motion in accordance with subsection (b) of this Rule. The Panel has no obligation to grant an untimely motion for an extension of time to file a brief or consider a late brief.~~

**RULE 8009-2**

**Appendices**

~~(a) **Filing of Appendix.** Appendices are due pursuant to the deadlines set forth in the briefing order issued by the BAP. Appellant briefs shall be accompanied by relevant appendices containing the documents set forth in Fed. 8012.~~

~~R. Bankr. P. 8009(b). An appellee may serve and file a supplemental appendix as provided in Fed. R. Bankr. P. 8009(b). In addition to the other items required by Fed. R. Bankr. P. 8009(b), an appellant shall include in its appendix a copy of the judgment, order, or decree from which the appeal is taken, and, where applicable, a copy of the transcript containing the findings of fact and the conclusions of law orally delivered by the bankruptcy court. The parties shall include in their respective appendices all portions of the transcript required for adequate review of the issues before the BAP. Appendices filed electronically must be filed on or before the date provided in the briefing order. Appendices not filed electronically may be filed by mail, but the filing is not timely unless the appendices are received by the BAP Clerk within the time fixed for filing, except that appendices are deemed filed on the day of mailing.~~

~~(b) **Format of Appendix.**~~

~~———— (1) **Paper and Margin Standards.** The appendix must be separate from the brief and must be printed on 8½" by 11" white paper with a one-inch margin on all four sides of text.~~

~~———— (2) **Table of Contents and Page Numbering.** Any appendix shall be sequentially paginated and shall contain a table of contents with reference to the numbered pages.~~

~~———— (3) **Covers.** Unless filed electronically, appendix covers shall be white. They shall contain the case caption, substantially in the format set forth in 1st Cir. BAP L.R. Official Forms 1–4, identify the party submitting the appendix with the name, address, telephone number, fax number, and bar number of any counsel filing the appendix.~~

~~———— (4) **Binding.** Unless filed electronically, any appendix shall be firmly bound along the left margin.~~

~~———— (5) **Relevant Statutes, Rules, and Regulations.** A party may include copies of relevant~~

~~statutes, rules, and regulations either in the appendix or in pamphlet form.~~

~~(c) **Consequence of Noncompliance.** The Panel may reject or disregard any appendices that fail to comply with any of the requirements set forth in this Rule or in Fed. R. Bankr. P. 8009(b).~~

**RULE 8010-1**  
**Form of Briefs**

~~(a) **Length.** Unless the BAP orders otherwise, opening briefs may not exceed 30 pages and reply briefs may not exceed 20 pages. Copies may be double sided.~~

~~(b) **Content.**~~

~~(1) **Briefs.** All briefs shall contain the matter set forth in Fed. R. Bankr. P. 8010(a).~~

~~(2) **References to Appendix.** Statements in briefs regarding background facts shall be supported by citation to the appendix. Citations to documents in the appendix shall be to pages of the appendix (e.g., App. at 27, or Appellee App. at 14) rather than to page numbering that appear on original papers.~~

~~(3) **Statement of Related Cases.** Any party filing a brief shall file a statement, attached to the last page of its brief and substantially in the form of 1st Cir. BAP L.R. Official Form 3, indicating whether the party knows of a related case pending before the Supreme Court of the United States or any United States Court of Appeals, United States District Court, or BAP.~~

~~(A) **Related Case.** A related case is one that involves substantially the same litigants and substantially the same fact pattern or legal issues as the pending appeal.~~

~~(4) **Statement of Interested Parties.** Any party filing a brief, other than governmental parties, shall file a statement, attached to the last page of its brief and substantially in the form of 1st Cir. BAP L.R. Official Form 4, indicating whether the party knows of any interested party who is not listed in the notice of appeal.~~

~~(A) **Interested Party.** An “interested party” includes all persons, associations, firms, partnerships, corporations, guarantors, insurers, affiliates, or other legal entities that are financially interested in the outcome of the appeal. When a corporation is a party to an appeal, the Statement of Interested Parties shall identify any parent corporation and any publicly held corporation that owns 10 per cent or more of its stock or state that there is no such corporation. An individual listing is not necessary if a large group of persons or firms can be specified by a generic description. The Statement of Interested Parties shall include the names of~~

~~attorneys who have previously appeared for a party in the case or proceeding below but who have not entered an appearance with the BAP.~~

~~(c) **Format.**~~

~~(1) **Paper and Margins Standard.** Briefs shall be printed on 8½" by 11" paper with a one inch margin on all four sides of text, including pagination and footnotes.~~

~~(2) **Line Spacing and Type.** Briefs shall use the following line format: single spacing for the caption and footnotes, and double spacing for the main text. All printed matter shall appear in at least 12 point type.~~

~~(3) **Page Numbering.** All pages of briefs shall be sequentially numbered.~~

~~-~~

~~(4) **Table of Contents.** Briefs shall contain a table of contents.~~

~~(5) **Covers.**~~

~~\_\_\_\_\_~~

~~(A) **Form.** The covers of all briefs shall provide the following information, substantially in the format set forth in 1st Cir. BAP L.R. Official Forms 1-4:~~

- ~~(i) Name of court;~~
- ~~(ii) Case numbers (BAP and bankruptcy court);~~
- ~~(iii) Name of debtor(s);~~
- ~~(iv) Names of appellant(s) and appellee(s);~~
- ~~(v) Title of document;~~
- ~~(vi) Name, address, telephone number, facsimile number, and bar number of counsel filing document, or of pro se party.~~

~~(B) **Color.** Unless filed electronically, all briefs shall have a color cover depending on the respective party. The covers of briefs shall be as follows:~~

- ~~(i) appellant's brief shall have a blue cover;~~
- ~~(ii) appellee's brief shall have a red cover; and~~
- ~~(iii) appellant's reply brief shall have a gray cover.~~

~~(6) **Binding.** Unless filed electronically, briefs shall be firmly bound along the left margin.~~

~~(d) **Consequence of Noncompliance.** The Panel may reject or disregard any briefs that fail to comply with any of the requirements set forth in this Rule.~~

**RULE 8011-1**

Motion Practice 1st Cir. BAP L.R. 8013-1. Motions

~~(a) **Written Motion Required.** All motions to the BAP shall be in writing and filed with the BAP Clerk and served in accordance with 1st Cir. BAP L.R. 8008 1(c). Any brief, affidavit, or other document(s) necessary to support the motion shall be filed with the motion.~~

~~(1) **Statement Regarding Opposition.** A motion shall state whether any party to the appeal opposes the relief sought, if known.~~

~~(b) **Responses.** Unless the BAP orders otherwise, responses or oppositions to a motion shall be filed within fourteen (14) days after service of the motion.~~

~~(c) **Telephone Number and Facsimile Number.** A motion or response shall include the telephone and, if applicable, the facsimile number of the person signing the motion.~~

~~(d)~~ **(a) Procedural Motions.**

**(1) Clerk Authorized.** The BAP ~~C~~clerk may act on the following motions without submission to ~~the Panel~~ a single judge or a panel of judges:

- (A) Motions relating to the production or filing of the record, transcripts, appendices, or briefs on appeal, including motions to seal;
- (B) Motions for voluntary dismissal of appeals;
- (C) Motions to dismiss for want of prosecution;
- (D) Motions for extension of time;
- (E) Motions seeking a determination of the validity of an election;
- (F) Motions for reconsideration under 1st Cir. BAP L.R. 8013(a)(2);
- (G) Motions for leave to consolidate appeals; and

~~(F)~~ (H) Such other motions as the BAP may designate and that are subject to disposition by a single judge under Fed. R. Bankr. P. 80113(e).

**(2) Reconsideration.** ~~A BAP Clerk order shall~~ Unless the BAP clerk grants reconsideration, a motion for reconsideration of orders disposing of any motions listed in 1st Cir. BAP L.R. 8013-1(a)(1) will be submitted to reconsideration by a single judge or a three-judge Panel if, or panel of judges. Such a motion must be filed within ~~fourteen (14)~~ days of service of notice of the entry of the order, ~~a party adversely affected moves for reconsideration.~~

**(e)** **Substantive Motions.** The BAP ~~C~~clerk shall forward substantive motions (e.g., motions for leave to appeal, to dismiss an appeal, or to reduce bond) to ~~the~~ an appropriate judge(s) for determination. ~~Unless the BAP otherwise directs, oral argument will not be held on motions.~~

**(f)** **Summary Disposition.** At any time, on ~~such notice as the Panel may direct,~~ on motion of any appellant, any appellee, or sua sponte, the ~~Panel~~ BAP may:

- (1) dismiss the appeal if the BAP lacks jurisdiction;
- (2) dismiss the appeal, grant any other request for relief, or affirm and enforce the judgment, order, or decree below if it appears that no substantial question is presented; or
- (3) reverse in the case of obvious error.

**RULE 8011-2Emergency Motions (d) Emergency Motions.**

~~(a) Notice.~~ **(1) Notice.** Before filing an emergency motion, the movant shall telephone the BAP clerk to provide advance notice of the filing. Emergency motions and responses shall be filed and served by the quickest method available. Although documents may be filed any time through CM/ECF, the filer should not expect that the filing will be addressed outside regular business hours.

~~(b) Form and Content.~~ **(2) Form and Content.** A party requesting emergency determination shall plainly title its motion as one for emergency relief. The motion shall set forth a date or period within which it seeks such determination and request that the period for response be reduced to a specified date or period. ~~The circumstances warranting emergency determination shall be fully disclosed and explained by a verified statement of counsel accompanying the motion, or by the party if not represented by counsel.~~

**1st Cir. BAP L.R. 8014-1. Briefs**

**(a) Content.**

(1) References to Appendix. Statements in briefs regarding background facts shall be supported by citation to the appendix. Citations to documents in the appendix shall be to pages of the appendix (e.g., App. at 27, or Appellee App. at 14) rather than to page numbering that appear on original papers.

(2) Statement Regarding Related Cases. Any party filing a brief shall file a statement, attached to the last page of its brief and substantially in the form of 1st Cir. BAP L.R. Official Form 1, indicating whether the party knows of a related case pending before the Supreme Court of the United States or any United States Court of Appeals, United States District Court, or BAP. The filing is excluded from the brief length limitations.

(A) Related Case. A related case is one that involves substantially the same litigants and substantially the same fact pattern or legal issues as the pending appeal.

(3) Statement Regarding Interested Parties. Any party filing a brief, other than governmental parties, shall file a statement, attached to the last page of its brief and substantially in the form of 1st Cir. BAP L.R. Official Form 2, indicating whether the party knows of any

interested party who is not listed in the notice of appeal. The filing is excluded from the brief length limitations.

(A) **Interested Party.** An “interested party” includes all persons, associations, firms, partnerships, corporations, guarantors, insurers, affiliates, or other legal entities that are financially interested in the outcome of the appeal. When a corporation is a party to an appeal, the Statement of Interested Parties shall identify any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation. An individual listing is not necessary if a large group of persons or firms can be specified by a generic description. The Statement of Interested Parties shall include the names of attorneys who have previously appeared for a party in the case or proceeding below but who have not entered an appearance with the BAP.

### **1st Cir. BAP L.R. 8015-1. Form of Briefs, Appendices, and Other Documents**

(a) **Nonconforming Documents.** The BAP shall exercise its discretion in determining whether to accept documents which do not meet all the requirements of Fed. R. Bankr. P. 8014 and 8015.

### **1st Cir. BAP L.R. 8018-1. Filing Briefs, Appendices, and Other Documents**

(a) **Filing of Briefs or Appendices.** After the BAP docket the record, it will issue a briefing order setting forth the deadlines for the filing of all briefs and appendices. Briefs and appendices filed electronically must be filed on or before the date provided in the briefing order. Briefs and appendices not filed electronically may be timely filed if they are sent in compliance with Fed. R. Bankr. P. 8011(a)(2)(B). Under no circumstances will the BAP clerk accept for filing by facsimile briefs and appendices.

(b) **Form of Appendix.** In addition to the provisions for an appendix set forth in Fed. R. Bankr. P. 8009 and 8018, an appendix shall be a document separate from the brief, contain a cover page with the case caption, and be sequentially paginated. Only documents properly before the bankruptcy court may be included in the appendix.

### **(c) **Motion for Extension of Time for Filing a Brief.****

(1) **Requirements.** A motion for extension of time for filing a brief shall:

(A) be filed within the time limit established by the briefing order for the filing of such brief;

(B) be supported by a declaration setting forth any previous briefing deadlines; how many extensions of time, if any, have been granted; and whether any previous requests for extensions of time have been denied or denied in part; and

(C) briefly recite the reasons why such an extension is necessary and the amount of

time requested.

(2) Consequence of Failure to File Brief Timely. An appellant's failure to file a brief timely may result in dismissal of the appeal. An appellee's failure to file a brief timely may result in loss of the right to be heard at oral argument.

**RULE 8012-1**

Briefs filed late shall be accompanied by a motion in accordance with subsection (c) of this rule. The BAP has no obligation to grant an untimely motion for an extension of time to file a brief or consider a late brief.

**1st Cir. BAP L.R. 8019-1. Oral Argument**

(a) **Statement Regarding Oral Argument.** ~~Any party may~~The parties shall include, either in the opening or answering brief, a statement limited to one-half page setting forth the reasons oral argument should, or need not, be heard (the "Statement"). The Statement shall be inserted immediately after the Table of Contents and Table of Authorities, and before the first page of the brief, and shall bear the caption "Statement Regarding Oral Argument." The Statement shall not be considered in determining the maximum number of pages in the brief.

(b) **Waiver of Oral Argument.** Oral argument may be waived upon written stipulation of the parties, unless the ~~Panel~~BAP orders otherwise.

(c) ~~Telephonic Appearance.~~Telephone or Videoconference. A party may request in the Statement, or the ~~Panel~~BAP may determine, that oral argument shall be conducted ~~telephonically~~by telephone or by videoconference.

(d) ~~Notice of Exceptions to Oral~~ **Argument.** If the ~~Panel~~BAP concludes that oral argument is unnecessary, based on the standards set forth in Fed. R. Bankr. P. R. Bankr. P. 8012, ~~the parties shall be so advised. The Panel's decision to dispense with oral argument may be announced by the Panel at the time the decision on the merits is rendered~~8019(b), it will promptly advise the parties.

(e) **Presentation of Oral Argument.** At oral argument the parties may expect the ~~Panel~~panel of judges to be familiar with the briefs and the record on appeal. The ~~Panel~~BAP will permit no more than 15 minutes per side for oral argument unless ~~the Panel~~it announces ~~a different time at the commencement of argument~~otherwise. Counsel shall adhere to the prescribed time limit by their own devices. Where more than one counsel argues on one side of a case, it is their responsibility to assure a fair division of the total time allotted. One or more cases posing the same issues arising from the same factual context may be treated as a single case for the purposes of this ~~R~~rule.

(f) **Location of Oral Argument.** The BAP generally conducts oral argument monthly in Boston. For cases originating in Puerto Rico, Maine, New Hampshire, and Rhode Island, the BAP may conduct oral argument in those districts. The parties may set forth their preference for the timing or location of oral argument in the Statement. The BAP may accommodate those preferences depending on considerations of scheduling and caseload.

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**RULE 8016-1**  
**Clerk of the Bankruptcy Appellate Panel**

(g) Change of Date, Method, or Place of Hearing. Once the BAP schedules an appeal for oral argument, it will only grant motions to change the date, method, or location for good cause shown.

1st Cir. BAP L.R. 8020-1.

~~(a) Communication with the BAP.~~ All communication with the BAP shall be addressed to the BAP Clerk at the following address:=====

~~U.S. Bankruptcy Appellate Panel for the First Circuit  
John W. McCormack Post Office and Court House 5 Post Office Square, Suite 910  
Boston, MA 02109  
(617) 748-9650~~

~~(b) Hours of the BAP.~~ The office of the BAP Clerk shall be open for business during the hours posted at the website located at <http://www.bap1.uscourts.gov> except for legal holidays as that term is defined in Fed. R. Bankr. P. 9006(a). For information regarding emergency closings, parties may telephone the Office of the Clerk of the United States Court for Appeals for the First Circuit at (617) 748-9057.

**RULE 8018-1**

**Silence of Local Rules**

To the extent the Federal Rules of Bankruptcy Procedure and these rules are silent as to a particular matter of practice, the BAP may apply the First Circuit Local Rules and the Federal Rules of Appellate Procedure.

**RULE 8070-1**

**Diligent Prosecution of Appeals**

(a) **Reporting Changes.** Attorneys who are not filing electronically and pro se parties shall immediately file with the BAP a statement of any address, telephone number, or facsimile number changes.

(b) **Dismissal for Failure to Prosecute.** If no party has elected to proceed before the district court and no appellant prosecutes the appeal in accordance with the requirements of the Federal Rules of Bankruptcy Procedure and ~~these rules,~~ the First Circuit BAP Clerk Local Rules, the BAP clerk may enter an order dismissing the appeal for failure to prosecute.

(1) **Discretion to Reinstate.** The BAP may reinstate the appeal upon a motion by a

defaulting party, within ~~fourteen~~(14) days of service of the order. Such a motion shall not be allowed absent a verified statement by counsel for the defaulting party or by the defaulting party, if pro se, showing special circumstances justifying the failure to comply with the requirements of the Federal Rules of Bankruptcy Procedure or these rules.

(c) Sanctions for Vexatious Litigation. When any party to a proceeding before the BAP or any attorney practicing before the BAP files a motion, brief, or other document that is frivolous or interposed for an improper purpose, such as to harass or to cause unnecessary delay, or unreasonably or vexatiously increases litigation costs, the BAP may, on its own motion, or on a motion of a party, impose appropriate sanctions on the offending party, the attorney, or both. Any party or attorney on whom sanctions may be imposed under this rule shall be afforded an opportunity to respond within fourteen days of service of a motion or an order to show cause before sanctions are imposed by the court.

#### 1st Cir. BAP L.R. 8022-1. Motion for Rehearing

(a) Responses. Parties responding to a motion for rehearing may do so within 7 days after the serving of the motion.

#### 1st Cir. BAP L.R. 8024-1. Office of the Clerk

(a) Communication with the BAP. All communication with the BAP shall be addressed to the BAP clerk at the following address:

U.S. Bankruptcy Appellate Panel for the First Circuit  
John W. McCormack  
Post Office and Court House  
5 Post Office Square, Suite 910  
Boston, MA 02109  
(617) 748-9650

(b) Hours of the BAP. The office of the BAP clerk shall be open for business during the hours posted at the website located at <http://www.bap1.uscourts.gov> except for legal holidays as that term is defined in Fed. R. Bankr. P. 9006(a). For information regarding emergency or weather closings, parties may telephone the BAP clerk or consult the website.

#### 1st Cir. BAP L.R. 8026-1. Local Rules

(a) Application of the Federal Rules of Bankruptcy Procedure. Unless otherwise altered or suspended by these rules or by court order, Part VIII of the Federal Rules of Bankruptcy Procedure and all relevant Official Forms apply to BAP proceedings.

(b) Silence of the Local Rules. To the extent the Federal Rules of Bankruptcy Procedure and these rules are silent as to a particular matter of practice, the BAP may apply the Local Rules of the United States Court of Appeals for the First Circuit and the Federal Rules of Appellate

Procedure.

(c) Definitions. The definitions set forth in 11 U.S.C. § 101 are applicable to the rules set forth in Fed. R. Bankr. P. ~~RULE~~8000, et seq. and the First Circuit BAP Local Rules.

**1st Cir. BAP L.R. 9009-1. Official Forms**

The BAP adopts the 1st Cir. BAP L.R. Official Forms appended hereto and such forms shall be utilized in cases and proceedings filed with the BAP under Title 11 of the United States Code. The 1st Cir. BAP L.R. Official Forms may be amended and supplemented from time to time.

**RULE 1st Cir. BAP L.R. 9010-1. Entry of Appearance and Admission to Practice**

**(a) Notice of Appearance.** An attorney who represents a party in an appeal, and who is not identified in the notice of appeal or a notice of substitution of attorney, shall immediately file and serve a notice of appearance containing the attorney's name, address, telephone number, bar number, and facsimile number.

**(b) Appearance.** Notwithstanding the previous subsection, an attorney who authorizes his or her name to appear on any pleading filed with the BAP has entered an appearance.

**(c) Withdrawal and Substitution.** An attorney who has entered an appearance may not withdraw without either:

(1) filing and serving a Notice of Substitution of Attorney. The notice shall contain substitute counsel's name, bar number, address, telephone number, facsimile number, and signature; or

(2) obtaining an order of the ~~Panel~~BAP allowing the attorney to withdraw. The ~~Panel~~BAP may grant such an order if an attorney files and serves on opposing counsel and the attorney's client a motion to withdraw as counsel. Any motion to withdraw shall include the client's current address and telephone number. Where an attorney appeared on behalf of a corporation, the motion to withdraw will be considered in conjunction with 1st Cir. BAP L.R. 9010-2.

**(d) Admission.** An attorney is admitted to practice before the BAP if the attorney is:

(1) admitted to practice by and a member in good standing of the United States Court of Appeals for the First Circuit;

(2) admitted to practice by and a member in good standing of a United States District Court within the First Circuit; or

(3) admitted to practice by a United States Bankruptcy Court in the case or proceeding on appeal.

(e) **Pro Hac Vice.** Any attorney not admitted to practice by the United States Court of Appeals for the First Circuit, a United States District Court within the First Circuit, or a United States Bankruptcy Court in the case or proceeding on appeal may, upon a motion, appear and practice before the BAP in a particular action at the BAP's discretion. All such motions shall have attached a supporting affidavit containing the following:

- (1) the attorney's address, telephone number, and facsimile number;
- (2) a listing of the court(s) to which the attorney has been admitted to practice and the date(s) of admission;
- (3) a statement that the attorney is in good standing and eligible to practice in the court(s);
- (4) a statement that the attorney is not currently suspended or disbarred in any jurisdiction;
- (5) a statement describing the nature and status of any pending disciplinary matters involving the attorney; and
- (6) a statement that the attorney is familiar with the requirements of Rule VIII of the Rules of Attorney Disciplinary Enforcement for the Court of Appeals for the First Circuit, made applicable through 1st Cir. BAP L.R. 8018-1.

**RULE 1st Cir. BAP L.R. 9010-2. Pro Se Parties**

The signature of an individual not represented by counsel on a pleading shall constitute a pro se appearance. All other parties shall appear only through counsel. Pro se parties shall ensure their appeal is perfected in a manner and within the time limits prescribed in these rules and shall prosecute the appeal with diligence.



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~~1st Cir. BAP L.R. Official Form 2~~

~~UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT~~

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~~BAP NO. 00-000~~

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~~Bankruptcy Case No. 00-00000~~

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~~§  
Debtor(s).~~

---

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~~§  
Appellant(s).~~

~~v.~~

---

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~~§  
Appellee(s).~~

~~APPELLEE'S STATEMENT OF ELECTION TO HAVE  
THE UNITED STATES DISTRICT COURT HEAR APPEAL~~

~~Appellee, \_\_\_\_\_, hereby elects, pursuant to 28 U.S.C. § 158(c)(1)(B), Fed.  
R. Bankr. 8001(e), and 1st Cir. BAP L.R. 8001-4(b)(1), to have the United States District Court for  
the District of \_\_\_\_\_ hear this appeal.~~

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\_\_\_\_\_  
 \_\_\_\_\_ Attorney for the Appellee or Pro Se Appellee  
 \_\_\_\_\_ Address  
 \_\_\_\_\_ Telephone Number  
 \_\_\_\_\_ Facsimile Number  
 \_\_\_\_\_  
 \_\_\_\_\_

1st Cir. BAP L.R. Official Form 3

~~UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT~~

\_\_\_\_\_  
 \_\_\_\_\_  
 BAP NO. 00-000

\_\_\_\_\_  
 \_\_\_\_\_  
 Bankruptcy Case No. 00-00000

\_\_\_\_\_  
 \_\_\_\_\_  
 Debtor(s).

\_\_\_\_\_  
 \_\_\_\_\_  
 Appellant(s).

\_\_\_\_\_  
 \_\_\_\_\_  
 Appellee(s).

STATEMENT REGARDING RELATED CASES

1st Cir. BAP L.R. 80104-1(b)(3a)(2)

- The undersigned certifies that the following are known related cases and appeals:

Case Name	Court	Status of Case
_____	_____	_____

- The undersigned certifies that the undersigned knows of no related cases or appeals as that term is defined in 1st Cir. BAP L.R. 80104-1(b)(3a)(2)(A).

\_\_\_\_\_  
Attorney or Pro Se Party  
Address  
Telephone Number  
Facsimile Number

**1st Cir. BAP ~~L.R.~~ Official Form 42**

UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT

\_\_\_\_\_  
BAP NO. 00-000

\_\_\_\_\_  
Bankruptcy Case No. 00-00000

\_\_\_\_\_  
,  
Debtor(s).

\_\_\_\_\_  
,  
Appellant(s),

v.

\_\_\_\_\_  
,  
Appellee(s).

STATEMENT REGARDING INTERESTED PARTIES

1st Cir. BAP L.R. 80104-1(~~b~~)(~~4a~~)(3)

The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable the judges of the Panel to evaluate possible disqualification or recusal.

The undersigned certifies that the undersigned knows of no interested party as that term is defined in 1st Cir. BAP L.R. 80104-1(~~b~~)(~~4a~~)(3)(A).

---

Attorney or Pro Se Party

Address

Telephone Number

Facsimile Number